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Security Council
Sixty-sixth year

Report of the Security Council

Question of equitable representation on and increase in the membership of the Security Council and related matters

Identical letters dated 23 November 2011 from the Permanent Representative of Egypt to the United Nations addressed to the President of the General Assembly and the President of the Security Council

I have the pleasure to write to you in my capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement concerning the open debate of the Security Council, to be held on 30 November 2011, on the implementation of the note by the President of the Security Council (S/2010/507) dated 26 July 2010.

In order to have a rich debate on the subject matter on 30 November, which could lead to the achievement of our mutual goal of further improving the working methods of the Security Council, I am attaching herewith, for your consideration and the consideration of the members of the General Assembly and the Security Council, the position of the Non-Aligned Movement concerning the working methods of the Security Council as stipulated in the relevant paragraphs of the final document (A/65/896-S/2011/407, annex I), adopted by the Sixteenth Ministerial Conference of the Non-Aligned Movement, held in Bali, Indonesia, in May 2011, with a view to assisting the Security Council in its efforts to achieve the desired progress in reforming the working methods of the Council (see annex).

In this regard, I stress the importance that the Non-Aligned Movement attaches to having its positions taken into consideration in any possible outcome of the open debate of the Security Council.

I should highly appreciate if the present letter and its annex could be circulated as a document of the General Assembly and of the Security Council.

(*Signed*) Maged A. **Abdelaziz**
Ambassador
Permanent Representative

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Annex to the identical letters dated 23 November 2011 from the Permanent Representative of Egypt to the United Nations addressed to the President of the General Assembly and the President of the Security Council

Position of the Non-Aligned Movement concerning the working methods of the Security Council as stipulated in the relevant paragraphs of the final document (A/65/896-S/2011/407, annex I), adopted by the Sixteenth Ministerial Conference of the Non-Aligned Movement, held in Bali, Indonesia, in May 2011

The Ministers underscored the need for the States Members of the United Nations to fully respect the functions and powers of each principal organ of the United Nations, in particular the General Assembly, and to maintain the balance among those organs within their respective Charter-based functions and powers. They stressed that the Security Council must fully observe all provisions of the Charter as well as all General Assembly resolutions, which clarify its relationship with the latter organ and other principal organs. In this context, they affirmed that Article 24 of the Charter does not necessarily provide the Security Council with the competence to address issues which fall within the functions and powers of the General Assembly and the Economic and Social Council, including in the areas of norm-setting, legislation, administrative and budgetary matters and establishing definitions, bearing in mind that the Assembly is primarily tasked with the progressive development of international law and its codification.[1] The Ministers expressed their grave concern over the increasing and continuing encroachment by the Council on issues which clearly fall within the functions and powers of other principal organs of the United Nations and their subsidiary bodies. They further stressed that close cooperation and coordination among all principal organs is highly indispensable in order to enable the United Nations to remain relevant and capable of meeting the existing, new and emerging threats and challenges (A/65/896-S/2011/407, annex I, para. 71).

The Ministers stressed that while Member States have conferred on the Security Council the primary responsibility for the maintenance of international peace and security pursuant to Article 24 (1) of the Charter and in carrying out its duties under this responsibility, the Council acts on their behalf. In this context, they further stressed that the Council should report and be accountable to the General Assembly in accordance with Article 24 (3) of the Charter (ibid., para. 72).

The Ministers reiterated their concern over the continuing encroachment by the Security Council on the functions and powers of the General Assembly and the Economic and Social Council through addressing issues which traditionally fall within the competence of the latter organs, and the attempts to enter areas of norm-setting, administrative and budgetary matters and establishing definitions which fall within the purview of the Assembly (ibid., para. 73).

[1] In accordance with Article 13 (1) of the Charter of the United Nations.

The Ministers:

Urged all States to uphold the primacy of and full respect for the provisions of the Charter pertaining to the functions and powers of the General Assembly, called on the Presidents of the General Assembly, the Economic and Social Council and the Security Council to conduct regular discussions and coordination among themselves regarding the agenda and programme of work of the respective principal organs that they represent in order to establish increased coherence and complementarity among these organs in a mutually reinforcing manner, respectful of each others' mandates, and with a view to generating a mutual understanding among them, with whom the members of the respective organs that they represent have vested in good faith their trust and confidence (ibid., para. 74.1);

Welcomed as a step forward the informal meetings between the Presidents of the Council for the month of July and States Members of the United Nations on the preparation of the annual report of the Security Council, including those convened by Viet Nam in 2008, Uganda in 2009 and Nigeria in 2010, and called for more regular interactions between future Presidents of the Council for the month of July and the wider membership of the United Nations, which could help enhance the quality of such reports (ibid., para. 74.2);

Called on the Security Council to submit a more explanatory, comprehensive and analytical annual report to the General Assembly, assessing the work of the Council, including such cases in which the Council has failed to act, and the views expressed by its members during the consideration of the agenda items under its consideration. They further called on the Security Council to elaborate the circumstances under which it adopts different outcomes whether resolutions, presidential statements, press statements or elements to the press (ibid., para. 74.3);

Called on the Security Council, pursuant to Articles 15 (1) and 24 (3) of the Charter, to submit special reports for the consideration of the General Assembly (ibid., para. 74.4);

Called on the Security Council to ensure that its monthly assessments are comprehensive and analytical, and issued in a timely fashion. The General Assembly may consider proposing parameters for the elaboration of such assessments (ibid., para. 74.5);

Called on the Security Council to fully take into account the recommendations of the General Assembly on matters relating to international peace and security, consistent with Article 11 (2) of the Charter (ibid., para. 74.6);

Opposed and called for a stop to attempts to shift issues under the agenda of the General Assembly or the Economic and Social Council to the Security Council, and the encroachment by the latter on the functions and powers of the Assembly (ibid., para. 74.7).

In recent years, the Security Council has been too quick to threaten or authorize enforcement action in some cases while being silent and inactive in others. Furthermore, the Council has been increasingly resorting to Chapter VII of the Charter as an umbrella for addressing issues that do not necessarily pose an immediate threat to international peace and security. A careful review of these trends indicates that the Council could have opted for alternative provisions to respond more appropriately to particular cases. Instead of excessive and quick use of

Chapter VII, efforts should be made to fully utilize the provisions of Chapters VI and VIII for the pacific settlement of disputes. Chapter VII should be invoked, as intended, as a measure of last resort. Unfortunately, provisions of Articles 41 and 42 in some cases have been too quickly resorted to while the other options had not been fully exhausted (ibid., para. 82.4).

The Security Council-imposed sanctions remain an issue of serious concern to the countries members of the Non-Aligned Movement. In accordance with the Charter, the imposition of sanctions should be considered only after all means of peaceful settlement of disputes under Chapter VI of the Charter have been exhausted and a thorough consideration undertaken of the short-term and long-term effects of such sanctions. Sanctions are a blunt instrument, the use of which raises fundamental ethical questions of whether sufferings inflicted on vulnerable groups in the target country are legitimate means of exerting pressure. The objectives of sanctions are not to punish or otherwise exact retribution on the populace. In this regard, the objectives of sanctions regimes should be clearly defined, and the imposition of sanctions should be for a specified time frame and should be based on tenable legal grounds, and they should be lifted as soon as the objectives are achieved. The conditions demanded of the State or party on which sanctions are imposed should be clearly defined and subject to periodic review. Sanctions should be imposed only when there exists a threat to international peace and security or an act of aggression, in accordance with the Charter, and when such a threat is not applicable "preventively" in instances of mere violation of international law, norms or standards. Targeted sanctions may be a better alternative so long as the population of targeted State concerned is not victimized, whether directly or indirectly (ibid., para. 82.5).

Transparency, openness and consistency are key elements that the Security Council should observe in all its activities, approaches and procedures. Regrettably, the Council has neglected these important factors on numerous occasions. Such instances include unscheduled open debates with selective notification, reluctance in convening open debates on some issues of high significance, repeatedly restricting participation in some of the open debates and discriminating between members and non-members of the Council, particularly with regard to sequencing and time limits of statements during the open debates, failure to submit special reports to the General Assembly as required under Article 24 of the Charter, submission of annual reports still lacking sufficient information and analytical content, and lack of minimal parameters for the elaboration of the monthly assessment by the Security Council Presidencies. The Council must comply with the provisions of Article 31 of the Charter, which allow any non-Council member to participate in discussions on matters affecting it. Rule 48 of the provisional rules of procedure of the Security Council should be thoroughly observed. Closed meetings and informal consultations should be kept to a minimum and as the exception they were meant to be (ibid., para. 82.6).

The rules of procedure of the Security Council, which have remained provisional for more than 60 years, should be formalized in order to improve its transparency and accountability (ibid., para. 82.9).

The Ministers:

Called on the Security Council to increase the number of public meetings, in accordance with Articles 31 and 32 of the Charter, and that these meetings should provide real opportunities to take into account the views and contributions of the

wider membership of the United Nations, particularly non-Council members whose affairs are under the discussion of the Council (ibid., para. 83.1);

Called on the Security Council to allow briefings by the Special Envoys or Representatives of the Secretary-General and the United Nations Secretariat to take place in public meetings, unless in exceptional circumstances (ibid., para. 83.2);

Called on the Security Council to further enhance its relationship with the United Nations Secretariat and troop-contributing countries, including through a sustained, regular and timely interaction. Meetings with troop-contributing countries should be held not only in the drawing up of mandates, but also in their implementation, when considering a change in, or renewal of, or completion of a mission mandate, or when there is a rapid deterioration of the situation on the ground. In this context, the Security Council Working Group on Peacekeeping Operations should involve troop-contributing countries more frequently and intensively in its deliberations, especially in the very early stages of mission planning (ibid., para. 83.3);

Called upon the Security Council to uphold the primacy of and respect for the Charter in connection with its functions and powers and stressed once again that the decision by the Council to initiate formal or informal discussions on the situation in any State Member of the United Nations or any issue that does not constitute a threat to international peace and security is contrary to Article 24 of the Charter (ibid., para. 83.4);

Called on the Security Council to establish its subsidiary organs in accordance with the letter and spirit of the Charter, and stressed that these organs should function in a manner that would provide adequate and timely information on their activities to the general United Nations membership (ibid., para. 83.5);

Rejected any attempts to use the Security Council to pursue national political agendas and stressed the necessity of non-selectivity and impartiality in the work of the Council, and the need for the Council to keep strictly within the powers and functions accorded to it by the Member States under the Charter (ibid., para. 83.6);

Called on the Security Council to avoid resorting to Chapter VII of the Charter as an umbrella for addressing issues that do not necessarily pose a threat to international peace and security, and to fully utilize the provisions of other relevant Chapters, where appropriate, including Chapters VI and VIII, before invoking Chapter VII, which should be a measure of last resort, if necessary (ibid., para. 83.7).